

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

IN RE: : Case No. 17-31795-LTB
BESTWALL LLC, : Chapter 11
Debtor. : Charlotte, North Carolina
: Thursday, January 20, 2022
: 9:37 a.m.

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TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE LAURA TURNER BEYER,
UNITED STATES BANKRUPTCY JUDGE

11 APPEARANCES (via Teams) :

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1 | That's all I have, your Honor.

2 THE COURT: All right. Thank you.

With that, the Court will take a recess and come back
and tell you what we're going to do.

5 Thank you.

6 | (Recess from 4:20 p.m., until 4:53 p.m.)

7 AFTER RECESS

8 (Call to Order of the Court)

9 THE COURT: All right. We are back in the Bestwall
10 case, having heard argument by the parties on the Motion to
11 Compel Production of Documents Listed on the Debtor's Privilege
12 Log and the debtor's response thereto.

13 Let me give you my thoughts about where we are on that
14 and start by recognizing, I think, right out of the gate that
15 the debtor has provided a tremendous amount of information on
16 the privilege logs. There is no dispute about that. However,
17 I agree with many of the deficiencies that were pointed out in
18 the log and problems with the log that were pointed out by the
19 ACC and the FCR in their pleadings and at today's hearing, I
20 think the most obvious one being the one that Mr. Donlon
21 specifically focused on, which is the 188,000 identical
22 descriptions for those, that many entries. And that strikes
23 the Court as problematic and those descriptions need to be
24 cleaned up and made more specific so one can determine from the
25 face of the description if the privilege has been properly

1 alleged. I think, as Ms. Bradley pointed out in her argument,
2 the descriptions in some of the cases cited by Mr. Jones are
3 far more detailed and would be more along the lines of what the
4 Court thinks is appropriate and what the Court would be looking
5 for, you know. The, there was reference to a description of
6 draft settlement documents, for example, and the debtor's log
7 doesn't plead any description with that amount of specificity.

8 The other example that was discussed today was failure
9 to list authors of documents and while I understand and
10 appreciate that it may be difficult for, the example that was
11 thrown out, an Excel spreadsheet, to determine who an author
12 is, I, I get that, but at the same time I don't understand. It
13 strikes me as a little difficult to claim privilege for a
14 document if you are unsure who the author is. And so the
15 debtor should probably revisit some of those documents or
16 privilege logs. Excuse me.

17 But I think at the end of the day what the debtor
18 requested rather than -- the debtor, I believe, requested that
19 I deny the motion today or order a meet and confer and I think,
20 not unlike the situation in which we found ourselves with
21 respect to the debtor's motion to enforce the personal injury
22 questionnaire, it seems to me that it would be reasonable, as
23 the objecting claimants requested for that motion, to give the
24 debtors the opportunity to meet and confer again one more time
25 with the ACC and the FCR before the Court grants the motion

1 that's on the table for today. I think that would be
2 appropriate.

3 And so what I'm going to do is to continue this
4 hearing until February 17th, which I believe is the next
5 regularly scheduled hearing date for a Bestwall hearing, and
6 the Court will conduct a status hearing that day.

7 And, Mr. Jones, let me just be clear that the Court's
8 expectation is that whatever progress and changes the debtor
9 plans to make in response to and reaction to a meet and confer
10 and today's hearing, that those changes need to be made to the,
11 the privilege log before we come back for the status hearing on
12 February 17th. In other words, what I don't want to hear when
13 we come back for a status hearing on the 17th is that, "We plan
14 to do this or that." It needs to be done. Because as the ACC
15 and the FCR pointed out, time is of the essence at this point
16 and unfortunately, that's where we find ourselves.

17 So the other thing I would add is if anybody wants to
18 file any form of supplemental pleading prior to that February
19 17th hearing date, I would direct all of the parties to do that
20 by 5:00 on Monday, February 14th, and then we will go forward
21 on February 17th and see where we are. We will treat that as a
22 status hearing, though. And, and, you know, the Court will,
23 you know, further consider in light of the status update the,
24 the motion at that continued hearing on February 17th.

25 So are there any questions about that?